

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**AMANDA BOSARGE, individually and on
behalf of their minor children, et al.,**

Plaintiffs,

-against-

**DANIEL P. EDNEY, in his official capacity as
the State Health Officer, et al.,**

Defendants.

Civil Action No. 1:22-cv-00233-
HSO-BWR

**PLAINTIFFS' VOLUNTARY DISMISSAL OF DEFENDANT ARCHIE MITCHELL
ONLY, AND PLAINTIFF WILL MORGAN'S VOLUNTARY DISMISSAL OF HIS
CLAIMS AGAINST ALL DEFENDANTS**

Plaintiffs Amanda Bosarge, Jaquelyn Butler, Kimberly Harrell, Paul Perkins, Brandi Renfroe, and Jeana Stanley, by and through counsel, hereby file their voluntary dismissal of defendant Archie Mitchell. Further, Plaintiff Will Morgan, by and through counsel, hereby files his voluntary dismissal of claims against all defendants.

1. Pursuant to FED. R. CIV. P. 41(a)(1), Plaintiff Will Morgan hereby dismisses his claims without prejudice as to all defendants in this action.

2. Pursuant to FED. R. CIV. P. 41(a)(1), the remaining Plaintiffs Amanda Bosarge, Jaquelyn Butler, Kimberly Harrell, Paul Perkins, Brandi Renfroe, and Jeana Stanley voluntarily dismiss defendant Archie Mitchell without prejudice.

3. Fed. R. Civ. P. 41(a)(1) provides in pertinent part that the plaintiff "may dismiss an action" without a court order. The Fifth Circuit has ruled that a plaintiff is entitled to voluntarily dismiss claims against one defendant, even where the action against other defendants would

remain pending. *See, e.g., Plains Growers, Fl. M. I v. Ickes-Braun Glass*, 474 F.2d 250, 253 (5th Cir. 1973) (“we hold that plaintiff is entitled to a dismissal against one defendant under Rule 41(a), even though the action against another defendant would remain pending.”).

4. In this regard, the Fifth Circuit follows the majority rule. *See, e.g., Pedrina v. Chun*, 987 F.2d 608, 609-10 (9th Cir. 1993) (“We agree with the First, Third, Fifth, and Eighth circuits that Rule 41(a)(1) allows a plaintiff to dismiss without a court order any defendant who has yet to serve an answer or a motion for summary judgment. Rule 41(a)(1) is “designed to permit a disengagement of the parties at the behest of the plaintiff . . . in the early stages of a suit, before the defendant has expended time and effort in the preparation of his case.”).

5. For the avoidance of doubt, Plaintiffs Amanda Bosarge, Jaquelyn Butler, Kimberly Harrell, Paul Perkins, Brandi Renfroe, and Jeana Stanley do not dismiss any other defendants in this matter nor any claims asserted as to those defendants.

Dated: December 14, 2022.

Respectfully submitted,

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